A-94-09
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Summary of and Response to Comments on the ILEV Fleet Program

EPA received comment on the proposed ILEV fleet program from a wide variety of national and state fleets and fleet organizations, automobile manufacturers, natural gas companies, an oil company, and several other organizations and associations. EPA received both supportive and critical comments on the proposed program.

Some commenters argued that fleets should not be required to purchase ILEVs for reasons of questionable availability and selection, fueling concerns, excessive cost, inadequate emission benefit, and lack of legal authority. Other commenters supported the ILEV fleet program, in some cases addressing one or more of the issues raised by critics of the program. This section will discuss each of these issues.

Several commenters expressed concern that vehicles meeting ILEV requirements would not be available in sufficient numbers or in a wide enough variety of vehicle types to meet fleet needs by 1999. However, EPA believes that a range of ILEVs will very likely be available by the 1999 model year with considerable diversity of models. Chrysler recently certified two ILEV engine families for 1995, and the Agency believes that other major manufacturers are likely to begin certifying vehicles to the federal ILEV requirements as early as the 1996 model year. Under new regulations issued by EPA (59 FR 50042, September 30, 1994) aftermarket converters may also certify vehicles to the ILEV standard. EPA believes it is likely that, in addition to major auto manufacturers, some aftermarket converters will be motivated to certify and produce vehicles for an ILEV market in California and in other states. Already, there is much activity around alternative fuel vehicles (AFVs) in California. Because of the declining fleet average emission requirements of the California LEV program, these vehicles will increasingly need to meet LEV or ULEV requirements, and essentially all will be at these exhaust emission levels by the 2000-2001 time frame. Thus, all of the LEVs and ULEVs that are dedicated AFVs will easily meet the ILEV evaporative requirement as well.

It is important to note that the ILEV fleet program does not require all of a fleet's purchases to be ILEVs (the acquisition requirements peak at 50 or 70 percent, depending on the weight class of the vehicle), and a fleet can meet all or part of the requirement by purchasing credits (assuming a supply of credits

develops, which EPA believes likely since early ILEV production is already being planned). Therefore, fleet operators will have some flexibility in how they fulfil theri requirements under this program.

Another factor which will influence the availability of ILEVs as well as address concerns about alternative fuel availability is the implementation by the Department of Energy (DOE) of the Energy Policy Act (EPACT), which will apply to LDVs and LDTs (up to 6000 lbs GVWR) acquired by many public and fuel provider fleets nationwide by 1999 and possibly to private and municipal fleets thereafter. Fleet operators nationwide that will already be acquiring alternative fuel vehicles to meet EPACT acquisition requirements may in many cases choose ILEVs in order to maximize the emission reduction potential of their investment, adding to the market for a variety of models of ILEVs.

The EPACT fleet programs do not apply to MDVs and HDVs, and this could affect the range of available engines/vehicles available in the early years of the ILEV fleet program. EPA believes that there will be several alternative fueled MDV and HDV engine families certified as LEVs and ULEVs that will be able to meet ILEV evaporative requirements, especially in 2002 and later, when all MDVs covered by today's rule must be ULEVs. However, since the Agency is not certain whether a full range of such engine families will exist by 1999, today's final rule delays the starting date of the ILEV fleet program for MDVs and HDEs until 2000. This delay, combined with the limitation of the fleet purchase requirements during all model years to only 50 percent of newly acquired MDVs and HDVs, should assure that few, if any, California fleets covered by the ILEV fleet program will find it difficult to meet their business needs while complying with the program.

Further, the markets created by EPACT fleet requirements will expand alternative fuel infrastructure significantly. (Natural gas industry representatives commented in this rulemaking that they expect there to be 600 CNG fueling stations in southern California by the year 2000.) The effects of EPACT on fueling infrastructure, combined with the fact that under the ILEV fleet program fleets need only acquire ILEVs to replace vehicles that are or could be centrally fueled *100 percent of the time*, means that fueling dedicated alternative fuel vehicles by 1999 should not be problematic.

Some commenters raised concerns about the incremental costs of

ILEVs over general LEV vehicles and the costs of installing new refueling facilities. For the reasons discussed above, EPA believes that increasing production levels of alternative fuel vehicles due to EPACT requirements and the ILEV fleet program, as well as increased competition among producers, will lead to progressively lower incremental vehicle costs. Specifically, compressed natural gas (CNG) fuel cylinders, the largest cost component in CNG ILEVs, are likely to decrease in cost significantly as production volume increases and production methods are refined. To the extent that 100 percent alcohol fuel vehicles are developed, their incremental costs should be relatively low since the technology is not likely to differ greatly from existing conventional fuel engine technology. (For example, direct fuel injection technology, the likeliest technological approach for pure methanol or ethanol engines, is well developed for diesel applications.) Incremental vehicle costs for vehicles meeting ILEV requirements are unlikely to exceed $2000-4000 per vehicle in the early years and are likely to drop substantially below $2000 as production volumes increase. Federal and state tax benefits for AFV purchases may also help offset the cost for some fleet operators.

Concerns about the need for widespread investment by fleets in fueling infrastructure does not seem warranted. For CNG, the likely increases in numbers of public fueling facilities due to EPACT and other factors will mean fewer fleets will need to install their own alternative fuel facilities than otherwise might have been necessary. Public LPG fueling facilities are already widespread, and if LPG vehicles meeting ILEV requirements are marketed, the availability of LPG would likely increase even further. To the extent that alcohol fuel ILEVs are developed, existing tanks at public or private fueling facilities will be fairly easily converted to a liquid alternative fuel.

Commenters stated that the ILEV fleet program is contrary to the judgments made by Congress in the Clean Air Act clean fuel fleet program, and the Energy Policy Act. Commenters stated that these federal statutes create "federal templates" for fleet programs, and that the fleet programs under these statutes must generally be fuel-neutral.

EPA has modelled the South Coast ILEV fleet program on the Clean Air Act's Clean Fuel Fleet Program, with appropriate modifications as necessary. The purpose of the federal Clean Fuel Fleet Program (CFFP) is to facilitate the production and use of

clean-fuel vehicles by requiring fleet operators to include a certain percentage of clean-fuel vehicles in their new vehicle purchases beginning in 1998. The Act requires certain states to adopt a clean-fuel fleet program, or an adequate substitute program, in their State Implementation Plans.

Although Congress in the 1990 Amendments to the Clean Air Act established certain specific requirements for the federal Clean Fuel Fleet Program, EPA does not agree with the commenters' assertion that the South Coast ILEV fleet program ignores Congress' intent in enacting the Clean Air Act and Energy Policy Act fleet programs. First, in the Clean Air Act, Congress allowed states to "opt out" of the federal Clean Fuel Fleet Program by submitting a substitute program. EPA shall approve such substitute programs if they achieve at least equivalent reductions in emissions of ozone-producing and toxic air pollutants, and consist only of provisions that are not otherwise required by the Act. See Clean Air Act §182(c)(4)(B). The Act does not require substitute programs to meet any other specific requirements in order to merit approval from EPA as a substitute for the Clean Fuel Fleet Program. EPA does not believe that Congress would have permitted states such flexibility to opt-out of the CFFP if the CFFP was intended to be a "federal template" for all state fleet programs.

EPA agrees with commenters that the Clean Air Act's fleet program is fuel-neutral. The Clean Air Act's definition of "clean alternative fuel" includes any fuel used in a vehicle that complies with the clean-fuel vehicle standards when operating on that fuel. See Clean Air Act §241(2). However, the Energy Policy Act's definition of "alternative fuel" excludes petroleum-based fuels. The Secretary of the Department of Energy has discretion to include other fuels that are substantially not petroleum, and would yield substantial energy security and environmental benefits. See 42 U.S.C. §13211(2). Therefore, the Energy Policy Act's fleet program, if extended to cover private fleet operators, will require fleet operators to purchase vehicles that can operate on an alternative, non-petroleum fuel. This provides additional support for EPA's view that Congress did not intend for the Clean Air Act's fleet program to preclude other, different fleet programs intended to advance the introduction of cleaner vehicles into the market.

Several commenters argued that requiring fleets to purchase ILEVs would be counterproductive and that incentives would be the preferred approach. EPA supports the use of incentives by

California to encourage the introduction of increasing numbers of clean vehicles in fleets. EPA, however, EPA does not have funds authorized to support incentive programs (especially economic incentives, which the Agency believes will be the most effective). At least until California has enacted strong incentives for vehicles meeting ILEV requirements, EPA believes that it is necessary for the limited purchases under the ILEV fleet program to be required. The market certainty that accompanies even the limited fleet acquisition of this program provides the best signal possible to all economic participants, especially to vehicle manufacturers/converters and fueling infrastructure investors. EPA remains open, however, to considering new incentives and rewards to complement the ILEV acquisition requirements.

Two commenters (Southern California Gas Company and UNOCAL) presented estimates of the emission reductions available from ILEVs and drew conclusions about the significance, or lack of significance, of these reductions. As shown in the Regulatory Impact Analysis associated with this final rule, the potential exists for very significant evaporative emission reductions from vehicles meeting ILEV requirements.

EPA requested comment on whether the ILEV fleet program should be implemented in the Sacramento and Ventura FIP areas in addition to in the South Coast. The National Association of Fleet Administrators (NAFA) argued that the program should not be expanded for the reasons of questionable vehicle availability and selection, fueling concerns, cost, and lack of legal authority discussed above. The Ventura County Council for Economic Vitality and the Ventura County Economic Development Association expressed support for implementing the ILEV fleet program in the Ventura FIP as an additional source of emission reduction. Southern California Gas Company also supported implementation of the program in the Ventura FIP. As discussed above, EPA has addressed each of the concerns expressed by NAFA and other commenters about ILEV fleet requirements in general. The Agency concludes that the ILEV fleet program is feasible and can produce valuable emission reductions in any of the three FIP areas. Today's notice promulgates the ILEV fleet program in the South Coast and Ventura nonattainment areas, based on projections that the additional reactive organic gases (ROG) control offered by this program is not needed in the Sacramento area.

EPA also requested comment on whether the ILEV fleet program should include provisions to assure that the fleet vehicle turnover

rate does not decrease as a result of the ILEV purchase requirement. NAFA argued that the variety of factors that affect fleet vehicle replacement decisions would make it very difficult and inappropriate for EPA to establish replacement policies for fleets. EPA believes that there is the real possibility that some fleets may alter their replacement plans to forestall the purchase of vehicles meeting ILEV requirements, diminishing the early benefits of the program. However, we agree with NAFA that monitoring and enforcing provisions to assure that fleet turnover practices do not change drastically would be too complex to implement at this time. It is also not yet clear how widespread such a problem might ultimately be, especially since ILEV-type vehicles should become increasingly available and accepted. Therefore, EPA is not promulgating provisions to affect fleet vehicle turnover practices. EPA may revisit this issue in the future and propose appropriate provisions if the need for such controls become clearer.

United Parcel Service and the Coalition for Labor, Agriculture, and Business questioned EPA's approach to focusing the ILEV fleet program on fleets alone, which represent only a fraction of California vehicles. EPA believes it is appropriate to apply the program to fleets for the same reasons that the Clean Air Act focused only on fleets for the CFF program. That is, programs which involve a change in fuel will be much more difficult to apply to all vehicles than to a fraction of vehicles. In addition, fleets covered by the ILEV fleet program, as compared to individual vehicle owners, will generally have greater ability for central fueling and maintenance and will generally accumulate mileage faster, providing relatively early and larger emission reductions. As the availability of vehicles meeting ILEV requirements and fueling infrastructure for alternative fuels expands, it will be valuable to seek ways of broadening the use of very clean vehicles beyond fleets. However, EPA believes such action is premature, and the program promulgated today limits the ILEV fleet program to certain fleets, as proposed.

The Orange County Sanitation Districts suggested that "essential public service" vehicles be exempted from the program. In order to create as much uniformity as possible among fleet programs nationally, particularly for nationwide fleets, EPA desires the ILEV fleet program to be as similar as possible in structure to the Clean Air Act CFF program, which does not make such an exemption. For reasons discussed in detail above, EPA does not expect the availability of ILEVs for most purposes to be a

significant problem.

Finally, Southern California Gas Company suggested that the phase-in for the ILEV fleet program begin in 1998, as does the CFF program. EPA proposed to begin the FIP ILEV fleet program in 1999, largely to be consistent with more stringent emission standards proposed in the FIP NPRM for light-, medium-, and heavy-duty vehicles and engines. Although EPA is generally delaying implementing these more stringent standards, the Agency does not believe that it is appropriate to begin the ILEV fleet program in 1998. The fact that the CFF program begins in 1998 does not argue for 1998 implementation of the requirements of the ILEV fleet program since compliance with the CFF program is expected to occur largely with gasoline vehicles while current gasoline vehicles will not comply with the ILEV fleet program. On the contrary, this fact argues that additional time for new alternative fuel vehicles to become available may be appropriate for the ILEV fleet program. For these reasons, EPA is promulgating the program to begin in 1999, as proposed, for LDVs and LDTs. For MDVs and HDVs, for which availability of a range of offerings is somewhat less advanced relative to LDVs and LDTs, the ILEV fleet program will begin in 2000.

[End of ILEV S&A]